

Memorandum of Understanding

On Broadway Purchase of Birds Eye Property

Whereas, On Broadway, Inc. (hereinafter "OBI") has agreed to terms to purchase the 22 acre property known as the Birds Eye Property (hereinafter "Project Site") located the northeast corner of Broadway and Dousman in the City of Green Bay, as depicted in the attached Exhibit A;

Whereas, in order to obtain financing for the purchase of the Project Site, OBI has requested that the City guarantee a portion of the OBI loan by a private lender; and

Whereas, in exchange for guaranteeing the loan as provided for herein, the City seeks additional contingencies in order to secure successful redevelopment of the Project Site; and

Therefore, for good and valuable consideration, the parties do agree and state as follows:

1. OBI shall secure a New Market Tax Credit Loan in the amount of \$3,000,000.00 (hereinafter the "New Market Loan") from M&I Bank and a \$1,000,000.00 conventional loan (hereinafter the "Conventional Loan") from M&I Bank for purchase of the Project Site in the amount of \$3,600,000.00, including closing costs, with a closing to occur on or before June 15, 2007. The remaining 400,000 of the New Market Loan shall be used for future demolition and site improvements.
2. The City shall sign a guarantee at closing for the full amount of the New Market Loan. The New Market Loan has an estimated interest rate of 4.09% for a minimum loan term of 7 years. Monthly payments will be due in the amount of interest only during the initial 7 year term.
3. The Conventional Loan shall not be guaranteed by the City or OBI. It has an estimated floating interest rate of 7.09% that will adjust daily at the overnight LIBOR rate plus 175 basis points. Its term is 2 years with interest only due during the term with a balloon payment due in 24th month.
4. In the event that OBI fails to make payment on either loan for a period of more than two months, the City, or the Redevelopment Authority of the City of Green Bay as its agent, will at its discretion request title to the property. Upon such request, OBI agrees to transfer all property secured by the loans to the City/RDA. The City may assume all outstanding loans in event of default.
5. Proceeds from sale of land within the Project Site as described in paragraph 6 below shall be first applied to the Conventional Loan until paid in full. Thereafter, sale proceeds shall be deposited into an interest bearing account of which funds may be expended in accordance with paragraphs 6 and 7 herein. It is further understood and acknowledged that M&I Bank will

have a first position mortgage for the Conventional Loan on the Project Site including assignment of leases, rents, and profits and that M&I Bank will have a second position mortgage for the New Market Loan on the Project Site including assignment of leases, rents, and profits. If the balloon payment on the Conventional Loan is not made at the end of the loan's term, OBI shall negotiate with a private lender for refinancing of the Conventional Loan for a term not more than 5 years.

6. It is intended that the property will be subdivided and sold for redevelopment by third parties. Sales to third parties shall not be for the purpose of land banking or other purely speculative purpose. At least 80% of the proceeds of any sale shall be applied towards the conventional loan. Thereafter 80% of proceeds of any sale up to the amount of principal and interest of the New Market Tax Credit Loan shall be held in an interest bearing account until the earliest date upon which the New Market Tax Credit Loan may be paid in full.

7. It is anticipated that the City will be asked to invest public funds for infrastructure, demolition, storm water management, and similar costs allocated to the site that may be funded with tax increment financing. The City would like to recoup those expenditures as quickly as possible. After the Conventional Loan and the New Market Loan are repaid in full or funds sufficient to retire these Loans are escrowed, 50% of property sale proceeds shall go towards paying down any additional debt incurred by the City, including through tax increment financing, until 50% of the City debt for public improvements and demolition on the site (not including debt incurred on behalf of and guaranteed by third party developers or property owners) is repaid. OBI may request a waiver of this requirement from the Redevelopment Authority of the City of Green Bay prior to any expenditure of funds. The Redevelopment Authority of the City of Green Bay shall act in its sole discretion. After 50% of the City debt is repaid, 30% of the property sales proceeds shall go towards paying down City debt until the TIF can be closed. All excess funds shall be applied towards marketing, public improvements and other projects within the OBI business improvement district which may be amended from time to time.

8. OBI shall appoint three members to the Birds Eye Governing Board (hereinafter "the Board"). The Mayor shall also appoint three representatives for the City to serve on the Board. The Board shall be responsible for final approval of all aspects of the development effort, including but not limited to implementation of the Concept Plan, future Planned Unit Development, expenditure of funds, sale of property, and design review. All such decisions require a majority vote of the Board of which at least 5 members of the Board shall be present at any vote. In the event of a tie vote, the issue shall be decided by the Redevelopment Authority of the City of Green Bay in its sole discretion. The Board will remain in place at least until such time as the City's guarantee is released and the dissolution of the board is approved by OBI and the Redevelopment Authority of the City of Green Bay.

9. OBI has drafted and the City has approved a conceptual redevelopment of the Project Site as described in a document entitled Larsen Redevelopment – An Urban Mixed-Use Vision. The concept defines the intent of the purchase of the Birdseye property and expectations for redevelopment and shall serve as a general guideline as development of the Project Site

progresses. Redevelopment is expected to include building space for offices, residential units (rental and condo), retail, and restaurants. When fully redeveloped, the property is estimated to have an assessed value of more than \$105 Million. OBI shall submit a Planned Unit Development (PUD) for the property by September 15, 2007 in keeping with the concept plan.

10. No buildings or land within the Project Site may be sold to nonprofit or tax exempt entity.

11. No assignment of rights and obligation under this Agreement without consent of City.


12. All archeological artifacts in place on-site, found, disturbed, or recovered are the property of the citizens of Green Bay to which the City Council has control, subject to all state or federal regulations that may pertain to such items found.

[SIGNATURE PAGE FOLLOWS]

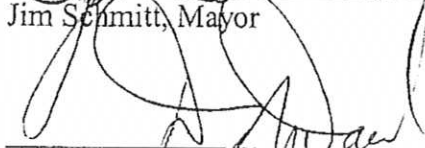
IN WITNESS WHEREOF, this Memorandum of Understanding has been duly executed the date first written above by:

CITY OF GREEN BAY

By



Jim Schmitt, Mayor

By


Doug Daul, Clerk

Address: 100 North Jefferson Street
Green Bay, WI 54301

Personally came before me this 8th day of June, 2007, the above named Jim Schmitt, Mayor of the City of Green Bay and Doug Daul, Clerk for the City of Green Bay, to me known to be the persons who executed the foregoing instrument on behalf of the City of Green Bay.

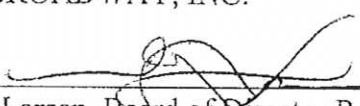

Lynn M. Beno

Notary Public, State of Wisconsin

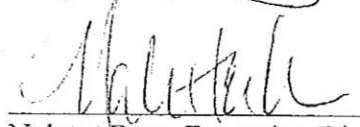
My Commission Expires December 6, 2009

ON BROADWAY, INC.

By


Greg Larsen, Board of Director President

By


Naletta Burr, Executive Director

STATE OF WISCONSIN)
)
COUNTY OF BROWN)

The foregoing instrument was acknowledged before me this 14th day of June, 2007 by Greg Larsen Naletta Burr, the President / Ex. Dir of On Broadway Inc, a Wisconsin non-stock corporation, on behalf of the corporation.